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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2013-0095]

Notice of Affirmation of Addition of a Treatment Schedule for Methyl Bromide Fumigation of Kumquat

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are affirming our earlier determination that it was necessary to immediately add to the Plant Protection and Quarantine Treatment Manual a treatment schedule for methyl bromide fumigation of kumquats to control certain fruit flies. In a previous notice, we made available to the public for review and comment a treatment evaluation document that described the new treatment schedule and explained why we have determined that it is effective at neutralizing fruit flies.

DATES: Effective on [Insert date of publication in the Federal Register], we are affirming the addition to the Plant Protection and Quarantine Treatment Manual of the treatment described in the notice published at 79 FR 4867-4868 on January 30, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Phillips, Senior Regulatory Policy Specialist with Regulations, Permits and Manuals, PPQ, APHIS, 4700 River Road Unit 135, Riverdale, MD 20737-1236; (301) 851-2114.

SUPPLEMENTARY INFORMATION:

The regulations in 7 CFR chapter III are intended, among other things, to prevent the introduction or dissemination of plant pests and noxious weeds into or within the United States. Under the regulations, certain plants, fruits, vegetables, and other articles must be treated before they may be moved into the United States or interstate. The phytosanitary treatments regulations contained in part 305 of 7 CFR chapter III (referred to below as the regulations) set out standards for treatments required in parts 301, 318, and 319 of 7 CFR chapter III for fruits, vegetables, and other articles.

In § 305.2, paragraph (b) states that approved treatment schedules are set out in the Plant Protection and Quarantine (PPQ) Treatment Manual.¹ Section 305.3 sets out a process for adding, revising, or removing treatment schedules in the PPQ Treatment Manual. In that section, paragraph (b) sets out the process for adding, revising, or removing treatment schedules when there is an immediate need to make a change. The circumstances in which an immediate need exists are described in § 305.3(b)(1). They are:

- PPQ has determined that an approved treatment schedule is ineffective at neutralizing the targeted plant pest(s).
- PPQ has determined that, in order to neutralize the targeted plant pest(s), the treatment schedule must be administered using a different process than was previously used.
- PPQ has determined that a new treatment schedule is effective, based on efficacy data, and that ongoing trade in a commodity or commodities may be adversely impacted unless the new treatment schedule is approved for use.

¹ The Treatment Manual is available on the Internet at http://www.aphis.usda.gov/import_export/plants/manuals/index.shtml or by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Manuals Unit, 92 Thomas Johnson Drive, Suite 200, Frederick, MD 21702.

- The use of a treatment schedule is no longer authorized by the U.S. Environmental Protection Agency or by any other Federal entity.

In accordance with § 305.3(b), we published a notice² in the Federal Register on January 30, 2014 (79 FR 4867-4868, Docket No. APHIS-2013-0095), announcing our determination that a new methyl bromide fumigation treatment schedule to control the fruit flies Ceratitis capitata and Anastrepha fraterculus on kumquat (Fortunella japonica) is effective, based on evidence presented in a treatment evaluation document (TED) we made available with the notice. We also determined that ongoing trade in kumquat would be adversely impacted unless the new treatment is approved for use. The treatment was added to the PPQ Treatment Manual, but was subject to change based on public comment. The notice also made available a finding of no significant impact based on an environmental assessment prepared in connection with the authorization of the importation of kumquats from Uruguay.

We solicited comments on the notice for 60 days ending on March 31, 2014. We received one comment by that date, from a private citizen. The commenter objected to the use of methyl bromide fumigation in general but did not present any evidence indicating that the treatment schedule described in the TED was not effective at neutralizing fruit flies.

Therefore, in accordance with the regulations in § 305.3(b)(3), we are affirming our addition of a methyl bromide treatment schedule for kumquats to control certain fruit flies, as

² To view the notice, the treatment evaluation document, the finding of no significant impact, and the comment we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0095>.

described in the TED made available with the previous notice. The treatment schedule is numbered T101-n-3. The treatment schedule will be listed in the PPQ Treatment Manual, which is available as described in footnote 1 of this document.

Authority: 7 U.S.C. 7701-7772 and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 29th day of May 2014 .

Kevin Shea

Administrator, Animal and Plant Health Inspection Service.

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